

(i) That the moisture level is acceptable for storage until such peanuts may be crushed; and

(ii) That the producer made a bona fide effort to clean such peanuts prior to offering such peanuts as collateral for a price support loan.

§ 1446.303 Delivery of peanuts for price support advance.

(a) *Warehouse storage loans.* Any warehouse operator who has entered into a contract with the marketing association to receive and store peanuts shall inform producers that price support advances are available and shall make such advances on eligible peanuts tendered for price support as provided in such contract.

(b) *Where available.* Unless otherwise approved by the marketing association or by CCC, producers must deliver farmers stock peanuts to any participating warehouse that is located in the same marketing area in which the peanuts were produced. The names and locations of participating warehouses may be obtained from the office of the appropriate marketing association or from State or county FSA offices.

(c) *Contract requirements.* Any contract for receiving and storing peanuts pledged as collateral for a price support loan shall require the warehouse operator to:

(1) Examine the producer's marketing card to determine price support eligibility;

(2) Make entries on the marketing card as required by § 729.304 of this title and by this part; and

(3) Execute a form FSA-1007 in accordance with this part for each lot of peanuts on which a price support advance is made.

(d) *Time.* Price support advances to eligible producers on peanuts of any crop will be available from the beginning of the marketing year through the following January 31 or such later date as may be established by the Executive Vice President, CCC.

(e) *Inspection.* An inspector shall determine the type and quality of each lot of farmers stock peanuts that is delivered to a participating warehouse for a price support advance from the marketing association.

(f) *Producer agreement.* To obtain a price support advance, the producer shall provide written authorization to the marketing association, and in the form prescribed by the applicable marketing association, to pledge the producer's peanuts to CCC as collateral for a warehouse storage loan and in so doing, the producer shall relinquish any right to redeem or obtain possession of such peanuts.

(g) *Advance to the producer.* For each lot of peanuts delivered by a producer to a participating warehouse for a price support advance, the warehouse operator, acting in behalf of the marketing association:

(1) Shall inquire of each producer as to whether any liens, other than a statutory peanut poundage quota lien, exist on peanuts offered for loan and shall note the response on form CCC-1041, Warehouse Receipt and Draft (A failure to make such an inquiry shall render the warehouseman liable for the amount of the lien to the extent of any loss to CCC);

(2) Shall advance to the producer the applicable loan value of such peanuts. However, if a lien exists, the loan advance draft, form CCC-1041, shall be made payable jointly to the producer and each known lienholder except in those cases in which a peanut poundage quota lien was attached, as provided in part 729 of this title before any other lien was recorded. In such case the peanut poundage quota lien shall be deducted from the proceeds and a draft may be issued for any remaining balance;

(3) Shall deduct from such advances any:

- (i) Marketing penalty;
- (ii) Marketing assessment as provided in part 729 of this title;
- (iii) Peanut poundage quota lien;
- (iv) Assessment or excise tax imposed by State law;
- (v) U.S. claim;
- (vi) Farm storage facility loan installment payment that is currently due to CCC; and
- (vii) Any other debt that is owed by such producer to a United States government agency.

(4) As applicable, shall transmit, in accordance with applicable instructions, such deducted amounts to the:

- (i) County FSA office;
- (ii) Applicable State agency; or
- (iii) CCC; and

(5) If such peanuts were produced in the Southwestern area, and upon the prior agreement of the producer, may deduct from such advance an amount approved by CCC, but not to exceed \$2.00 per net weight ton of peanuts, to be used in financing the marketing association's peanut related activities outside the price support program.

[56 FR 16230, Apr. 19, 1991, as amended at 58 FR 41626, Aug. 5, 1993]

§ 1446.304 Price support loans involving estates, trusts or minors.

(a) *Estates and trusts.* A receiver or trustee of an insolvent or bankrupt debtor's estate, an executor or administrator of a deceased person's estate, a guardian of an estate or of a ward or incompetent person, and trustees of a trust estate may be considered to represent the insolvent debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the peanut production of the receiver, executor, administrator, guardian, or trustees attributable to the person represented shall be considered to be the production of the person represented. Loan documents executed by any such person shall be accepted by CCC only if they are valid, as determined by CCC, and such person has the authority to sign the applicable documents.

(b) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if such minor meets one of the following requirements:

- (1) The right of majority has been conferred on such minor by court proceedings or by statute; or
- (2) A guardian has been appointed to manage such minor's property and the applicable price support documents are signed by the guardian; or
- (3) An acceptable bond is furnished under which a surety acceptable to CCC guarantees to protect CCC from any loss for which the minor would be liable had such minor been an adult.

§ 1446.305 Additional peanuts ineligible for price support.

(a) *Marketing penalty.* A marketing penalty is due if additional peanuts are marketed or considered marketed in any manner other than:

- (1) Through a price support loan at the additional loan rate; or
- (2) Through purchase for crushing or export by a handler who, in accordance with this part, has an approved contract with the producer to purchase peanuts for such purpose.

(b) *Delivery to avoid penalty.* Notwithstanding the provisions in paragraph (a) of this section, a person who has produced additional peanuts may avoid a marketing penalty on such peanuts through forfeiting such peanuts by delivering such peanuts to the marketing association for the area where the peanuts were produced and in accordance with instructions issued by the marketing association if:

- (1) Such person is not an eligible producer; and
- (2) Such person does not have a contract with a handler to purchase such peanuts for crushing or exportation.

(c) *Interest due.* A producer who pledges peanuts as collateral for a price support loan at the additional loan rate shall refund the loan advance on such peanuts with interest if, subsequent to the time the peanuts are pledged for the loan, it is brought to the attention of the marketing association that such person is not an eligible producer. Interest shall be due:

- (1) At the same interest rate that was applicable on funds borrowed from CCC by the marketing association on the date the loan was disbursed.
- (2) From the date the loan was disbursed to the date of repayment.

§ 1446.306 Commingling of peanuts.

To facilitate handling and marketing, unless prohibited by a handler's storage contract with the marketing association, a handler may store farmers stock loan peanuts on a commingled basis with peanuts owned by such handler if such peanuts are of like crop, type, area, and segregation.

(a) *Accounting for commingled peanuts.* Except for peanuts purchased from CCC for domestic edible use on an in-grade